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OFFICE OF SECRETARY

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OF COUNSEL

WRITER'S NUMBER

0474

September 5, 1996

DOCKET FILE COPY ORIGINAL

#### **BY HAND**

Mr. William F. Caton **Acting Secretary Federal Communications Commission** 1919 M Street, NW, Room 222 Washington, DC 20554

Re:

Station KIKK(FM), Temple, Texas

Dear Mr. Caton:

Transmitted herewith on behalf of Stellar Communications, Inc., licensee of Station KKIK(FM). Temple, Texas, are an original and four copies of a Petition For Rulemaking to amend the FM Table of Allotments to allot Channel 282C2 to Taylor, Texas, as that community's first fulltime local service and first FM service, and modify Station KKIK(FM)'s license to specify Taylor as its community of license pursuant to Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon, granted in part, 5 FCC Rcd 7094 (1990).

Should any question arise concerning this matter, please community directly with this office.

Very truly yours,

Andrew S. Kersting

Counsel for

Stellar Communications, Inc.

**Enclosures** 

cc: Ms. Leslie Shapiro (w/ encl.) (by hand)

BEFORE THE

RECEIVED

SEP 5 1996

WASHINGTON, D.C. 20554

**Federal Communications Commission** 

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of	)	
	)	
Amendment of Section 73.202(b) of the	)	MM Docket No
Commission's Rules, FM Table of Allotments,	)	RM No
(Taylor and Temple, Texas)	)	

To: Chief, Allocations Branch

#### **PETITION FOR RULEMAKING**

Stellar Communications, Inc. ("Stellar"), licensee of Station KKIK(FM), Temple, Texas, by counsel, and pursuant to Section 1.420(i) of the Commission's rules, hereby requests the Commission to institute a rulemaking proceeding for the purpose of amending the FM Table of Allotments to allot Channel 282C2 to Taylor, Texas, as that community's first full-time local service and first FM service, and modify Station KKIK(FM)'s license to specify Taylor as its community of license pursuant to Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990). In order to allot Channel 282C2 to Taylor, Stellar proposes to (i) delete the vacant allotment of Channel 282C2 at Temple, Texas; and (ii) allot Channel 282C2 at Taylor. Thus, Stellar proposes to amend Section 73.202(b) of the Commission's rules as follows:

#### Channel No.

<u>City</u>	<u>Present</u>	<b>Proposed</b>
Temple, Texas	269C3, 282C2	269C3
Taylor, Texas	None <sup>1</sup>	282C2

In support of this request, the following is stated:

The city of Taylor, Texas, is an incorporated community with a 1990 U.S. Census population of 12,461. Taylor is primarily an agriculture and manufacturing-based community located in Williamson County. Approximately 80,000 bales of cotton are harvested in Williamson County each year, and over 125,000 bales are shipped from the Taylor Compress, a local manufacturing company. *City Street Map*, City National Bank, Taylor, Texas ("*City Map*"). Taylor Compress is one of 18 local manufacturing and processing companies recognized by the Taylor Chamber of Commerce.

Taylor has its own police and fire department, as well as its own post office. *Experience Taylor (A Guide to Your Community)*, pp. 8-9 (1995). The Taylor Independent School District is comprised of four schools. *City Map*. In addition, the community is served by two parochial schools, which together house over 300 pupils. <u>Id</u>. A \$10.9 million bond issue was passed in 1995 to build another new elementary school and make significant improvements to Taylor Middle School. <u>Id</u>. Taylor also is served by Temple College at Taylor.

In addition, Taylor is served by four banks and/or savings and loans, which collectively hold more than \$139 million in assets. Taylor also has four hotels/motels, 22 restaurants, one, two-screen

<sup>&</sup>lt;sup>1</sup> The FM Table of Assignments contained in Section 73.202(b) of the Commission's rules indicates that Channel 221A is presently assigned to Taylor. However, this listing is in error because Channel 221A has been reassigned to Hutto, Texas. Indeed, Station KIKY(FM) is operating as a licensed facility on Channel 221A at Hutto. <u>See</u> Letter dated December 20, 1985, granting KIKY's request to change its community of license from Taylor to Hutto, Texas.

movie theater, and several churches. The community's transportation facilities include the Taylor Municipal Airport as well as the Union Pacific and Amtrak railroads. *Experience Taylor*, pp. 8-9.

With respect to medical facilities, Taylor is served by the Johns Community Hospital, a 65-bed general acute-care hospital, which has 24-hour emergency room service. Taylor also is served by The Health Center (physician's clinic), and the Scott and White/Johns Clinic, which provides family practice, general surgery, internal medicine, pediatrics, and an outpatient laboratory. *City Map*.

The city's recreational facilities include four public parks, two public swimming pools, 14 tennis courts, one public golf course, and one country club. *Experience Taylor*, p. 9.

Taylor's local media sources include the *Taylor Daily Press*, Radio Station KTAE(AM), and Cable Vision. Id.

As demonstrated in the attached Engineering Statement, the coordinates of the proposed transmitter site meet the minimum distance separation requirements with respect to all known licenses, construction permits, pending applications, and pending rulemaking proceedings. Moreover, there is a wide area in which a site may be located in compliance with the required spacing provisions of Section 73.207 of the rules.

The present Channel 282C2 facility at Temple operates with maximum Class C2 facilities which provide 60 dBu service to 308,183 persons in a 7,277 square kilometer area. The proposed allotment, if operated at maximum facilities at the proposed reference coordinates, will provide 60 dBu service to 712,282 persons in an area of 8,405 square kilometers. Thus, the proposed facility would serve 231% more people and a 16% greater area. See Engineering Statement.

Moreover, in addition to Station KKIK(FM), Temple is served by a Class C3 FM Station (KLTD) and a Class C AM station (KTEM), both of which are assigned to Temple and currently operating. Temple also receives service from an AM and FM station in Belton, Texas, and from FM stations in Harker Heights, Killeen, and Waco, Texas. Taylor, on the other hand, presently has no full-time local broadcast service. The only operating broadcast station is KTAE(AM), which is a Class B daytime-only facility. Id. Because the proposed allotment of Channel 282C2 at Taylor will provide the community with its first full-time local service and first FM service, Stellar's proposal presents a preferential reallotment plan under the fourth priority set forth in Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 n.8 (1982). See Elizabeth City, North Carolina and Chesapeake, Virginia, 9 FCC Rcd 3586, 3589 (Mass Med. Bur. 1994) (provision of a "competitive local radio service" to community with only a commercial AM and a noncommercial FM station warrants an allocation preference).

Furthermore, Taylor is approximately 29 miles northeast of Austin, and outside the Austin Urbanized Area. As demonstrated in the attached Engineering Statement (p. 2 and Ex. E1-3), the proposed city-grade contour of the Channel 282C2 facility at Taylor will cover only 23% of the Austin Urbanized Area. Therefore, the proposed allotment of Channel 282C2 to Taylor raises no question concerning a *de facto* reassignment to a larger metropolitan area. See Headland, Alabama and Chattahoochee, Florida, 10 FCC Rcd 10352, 10354 (Mass Med. Bur. 1995) (70 dBu coverage of 50% or more of urbanized area raises concerns regarding the validity of local service preference claims).

If this petition requesting the allotment of Channel 282C2 at Taylor, Texas, is granted, Stellar will file an application for a construction permit for the new facility, and, if its application is granted, will promptly construct the new facility.

WHEREFORE, in light of the foregoing, Stellar Communications, Inc., respectfully requests the Commission to GRANT this petition for rulemaking, AMEND the FM Table of Allotments, and ALLOT Channel 282C2 at Taylor, Texas, as that community's first full-time local service.

Respectfully submitted,

STELLAR COMMUNICATIONS, INC.

Harry C. Martin

Andrew S. Kersting

Its Counsel

Fletcher, Heald & Hildreth, P.L.C. 1300 North 17th Street, 11th Floor Rosslyn, Virginia 22209 (703/812-0400)

September 5, 1996

BROADCAST AND COMMUNICATIONS CONSULTING ENGINEERS P.O. Box 356 McKinney, Texas 75070 MEMBER AFCCE (214) 542-2056

EXHIBIT E-1

ENGINEERING STATEMENT IN SUPPORT OF

PETITION FOR RULEMAKING

TO AMEND SECTION 73.202(b) OF THE RULES

TAYLOR, TEXAS

BROADCAST AND COMMUNICATIONS CONSULTING ENGINEERS
P.O. Box 356 McKinney, Texas 75070
MEMBER AFCCE
(214) 542-2056

# ENGINEERING STATEMENT IN SUPPORT OF PETITION FOR RULEMAKING TO AMEND SECTION 73.202(b) OF THE RULES TAYLOR, TEXAS SEPTEMBER, 1996

This Firm has been retained by Stellar Communications, Inc. to prepare this Engineering Statement in support of its Petition for Rulemaking to change the City of License of Radio Station KKIK from Temple, Texas to Taylor, Texas by deleting FM Broadcast Channel 282C2 from the Table of Allotments, Section 73.202(b) of the Rules at Temple, Texas and adding Channel 282C2 to Taylor, Texas.

#### PROPOSED CHANNEL

Channel 282C2 is presently allotted to Temple, Texas and is occupied by Radio Station KKIK. This channel has sufficient latitude in spacing that it may be relocated west of Taylor, Texas. A large area is available in which to locate the transmitter site in conformance with the spacing standards of Section 73.207 of the Rules. A hypothetical reference point was chosen at a site approximately six kilometers southwest of Taylor. The coordinates of the reference point are:

N.L.: 30° 31′ 18″ W.L.: 97° 26′ 40″

A spacing study at this location appears herein as Exhibit E1-1.

A map showing the area in which to locate the proposed transmitter site appears herein as Exhibit E1-2. The reference point is shown on this map, along the spacing arc for Station KZEP-FM, San Antonio, Texas. Sufficient area is available in which to locate a tower of suitable height to fully realize the potential coverage of this proposed allotment.

Temple presently has one additional Class C3 FM station and a Class C AM station assigned and operating. In addition, it receives service from an AM and FM station in Belton and from FM stations in Harker Heights, Killeen and Waco, Texas.

#### PROPOSED CITY

Taylor, Texas is an incorporated city under the laws of Texas, located in Williamson County. Taylor had a population of 12,461 persons according to the 1990 Census. The community presently has no fulltime local broadcast service. It is presently served by Station KTAE, a Class B daytime only station. The addition of Channel 282C2 will provide a first fulltime local service and a first FM service to Taylor.

STELLAR/KKIK/960902 1

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#### PRESENT AND PROPOSED ALLOTMENTS

TEMPLE, TEXAS

TEMPLE, TEXAS

**PRESENT** 

**PROPOSED** 

269C3, 282C2

269C3

TAYLOR, TEXAS

TAYLOR, TEXAS

**PRESENT** 

**PROPOSED** 

NONE

282C2

The City of Taylor is located forty six and one half kilometers northeast of Austin, Texas, outside of the Austin, Texas Urbanized Area. Exhibit E1-3 is a map of the Austin, Texas Urbanized Area on which has been superimposed, the 70 dBu contour of a fully developed Class C2 facility at the reference site proposed for this allotment. The 70 dBu contour covers 23 percent of the Austin, Texas Urbanized Area. Thus the proposed allotment qualifies for priority as a first fulltime local service under "Modification of FM and TV Authorizations to Specify a New Community of License" MO&O 5 FCC Rcd 7094 (1990).

#### AREA AND POPULATION

The present facility operates with maximum Class C2 facilities providing 60 dBu service to 308,183 persons in an area of 7277 square kilometers. The proposed allotment, if operated at maximum facilities at the proposed reference point, will provide 60 dBu service to 712,282 persons in an area of 8405 square kilometers. This represents 231 percent of the present population and an area sixteen percent larger than the present area.

#### INTENT TO APPLY FOR FACILITY

Stellar Communications, Inc. will apply for and promptly construct facilities for Channel 282C2 at Taylor, Texas, if granted by the Federal Communications Commission.

BROADCAST AND COMMUNICATIONS CONSULTING ENGINEERS
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### EXHIBIT E1-1 FM SPACING STUDY AT PROPOSED ALLOCATION SITE

	FM SPACING :	STUDY AT PROPOS	LD ALLO	CALLON OI	· •		
	FM SPACING S	# # # # # # # # # # # # # # # # # # #			2525222 4/	70.71.	18
FM Stu	dy for: KKIK on: TAYLOR, TX City, State Proponent	FCC Da	tabase	Date: 8/	96	30.31	10 40
Locatio	on: TAYLOR, TX	Chan Class Ere	nuerra	lass: LZ Latitude	Dist.	Requir	ed
Status	Proponent	File Number	HAAT	Longitude	Azm.	Clear	(km)
	>>>>> Study For	Channel 282 1	04.3 mi	Hz <<<<<<	· <		
						190	
ALLUC	TEMPLE, TX	Docket-86-442	, o	97-33-10	347.9	-140.5	SHORT
	Use of 73.	215 for short s	pacing	requires:	177	-127.5	SHORT
SITE RE	EST 20.4 KM S.WEFF	6-3-88-RSVD FOR	KPLE F	PER D86-44	2a		
KKIK	TEMPLE, TX KTEM RADIO, INC.	282 C2 104.	3 34.4	+ 30-59-12	54.5	190	73.215
LIC	KTEM RADIO, INC.	BLH-910422	KI 182	97-37-47	341.1	-135.5	SHORT
	Use of 73.	215 for short s	spacing	requires:	177	- 122.3	SHUKT
ALLOC	CAMERON. TX	280 C2 103.	.9	30-45-16	57.50	58	
USE	CAMERON, TX	Docket-87-209	, 0	96-54-30	63.2	-0.50*	SHORT
	Use of 73.	215 for short s	spacing	requires:	56	+1.5	CLOSE
				20-25-00	158 18	158	
KZEPFM	SAN ANTONIO, TX TEXAS LOTUS CORPORAT	7 RMI N-820806	AJ 201	98-29-06	219.7	+0.18	CLOSE
ALLOC	SAN ANTONIO, TX	283 C1 104.	.5	29-25-09	158.18	158	ri oct
USE Coordi	nates updated from LI	c record BMLH	0 1820806	98-29-06 AJ	219.7	+0.10	CLUSE
					42 Q	58	73 215
KHLK	CAMERON, TX WILLIAM R. VANCE, JR	200 62 103.	KR 212	96-50-14	67.5	+4.9	CLOSE
ALLOC	AUSTIN, TX	229 C 93.	,7	30-18-36	40.8	35	o oer
USE Coordii	nates updated from LI	record BLH	υ 15505	97-47-33	235.0	+3.0	CLOSE
	•						
KLBJFM	AUSTIN, TX THE LBJ COMPANY	229 C 93.	.7 97.	30-18-36	40.8	35	
LIC	THE LBJ COMPANY	BLH-5505	320	97-47-33	235.0	+5.8	CLOSE
KBAE	MARBLE FALLS, TX MAXAGRID BROADCASTIN	285 C3 104.	0	30-26-45	72 6	56	
				JU 20 73	1 5.0		
ADD	MAXAGRID BROADCASTIN	G Docket-95-49	0	98-11-45	263.5	+16.6	CLEAR
Proposi	MAXAGRID BROADCASTING ed to Mexico as Class te Restricted 16.1KM	B 950811-Accep	0 oted By	98-11-45 Mexico 96	263.5 0401	+16.6	CLEAR
Proposi PRM-Si	ed to Mexico as Class te Restricted 16.1KM	B 950811-Accep Southwest	oted By	Mexico 96	0401		
Proposi PRM-Si	ed to Mexico as Class te Restricted 16.1KM	B 950811-Accep Southwest	oted By	Mexico 96	0401		
Proposi PRM-Sit KHLR CP	ed to Mexico as Class te Restricted 16.1KM : CAMERON, TX WILLIAM R. VANCE, JR	B 950811-Accep Southwest 280 C2 103. BPH-940930	oted By .9 40. DIF 167	Mexico 96 30-53-43 96-43-48	80.0 58.6	58 +22.0	
Proposi PRM-Sii KHLR CP	ed to Mexico as Class te Restricted 16.1KM : CAMERON, TX WILLIAM R. VANCE, JR	B 950811-Accep Southwest 280 C2 103. BPH-940930 281 C 104.	9 40. 01F 167	30-53-43 96-43-48 29-34-34	80.0 58.6 214.0	58 +22.0 188	CLEAR
Proposi PRM-Si KHLR CP KRBEFM	ed to Mexico as Class te Restricted 16.1KM	B 950811-Accep Southwest 280 C2 103. BPH-940930	9 40. 01F 167	30-53-43 96-43-48 29-34-34	80.0 58.6 214.0	58 +22.0 188	CLEAR
Proposi PRM-Si KHLR CP KRBEFM LIC	ed to Mexico as Class te Restricted 16.1KM: CAMERON, TX WILLIAM R. VANCE, JR HOUSTON, TX	B 950811-Accep Southwest 280 C2 103. BPH-940930 281 C 104. BLH-831025	.9 40. DIF 167 .1 95. SAC 585	30-53-43 96-43-48 29-34-34 95-30-36 29-34-34	80.0 58.6 214.0 118.8 214.0	58 +22.0 188 +26.0	CLEAR
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Propose PRM-Si KHLR CP KRBEFM LIC USE Coordin ALLOC USE Coordin	ed to Mexico as Class te Restricted 16.1km;  CAMERON, TX WILLIAM R. VANCE, JR HOUSTON, TX KRBE CO. HOUSTON, TX nates updated from LIC LA GRANGE, TX nates updated from LIC	B 950811-Accepsouthwest  280 C2 103. BPH-940930  281 C 104. BLH-831025  281 C 104. C record BLH  285 A 104. C record BLH	.9 40. DIF 167 .1 95. SAC 585 .1 0 4831025/	30-53-43 96-43-48 29-34-34 95-30-36 29-34-34 95-30-36 AC 29-52-57 96-51-58	80.0 58.6 214.0 118.8 214.0 118.8 90.1	58 +22.0 188 +26.0 188 +26.0 55 +35.1	CLEAR CLEAR CLEAR
Propose PRM-Si KHLR CP KRBEFM LIC ALLOC USE Coordin ALLOC USE	ed to Mexico as Class te Restricted 16.1km:  CAMERON, TX WILLIAM R. VANCE, JR HOUSTON, TX KRBE CO. HOUSTON, TX mates updated from LIG LA GRANGE, TX	B 950811-Accepsouthwest  280 C2 103. BPH-940930  281 C 104. BLH-831025  281 C 104. C record BLH  285 A 104. C record BLH	.9 40. DIF 167 .1 95. AC 585 .1 0 1831025/ .9 0	30-53-43 96-43-48 29-34-34 95-30-36 29-34-34 95-30-36 AC 29-52-57 96-51-58	80.0 58.6 214.0 118.8 214.0 118.8 90.1 141.7	58 +22.0 188 +26.0 188 +26.0 55 +35.1	CLEAR CLEAR CLEAR

Now KKIK

BROADCAST AND COMMUNICATIONS CONSULTING ENGINEERS P.O. Box 356 McKinney, Texas 75070 MEMBER AFCCE (214) 542-2056

EXHIBIT E1-2

MAP SHOWING PERMISSIBLE AREA TO LOCATE TRANSMITTER SITE

CHANNEL 282 C-2

TAYLOR, TEXAS

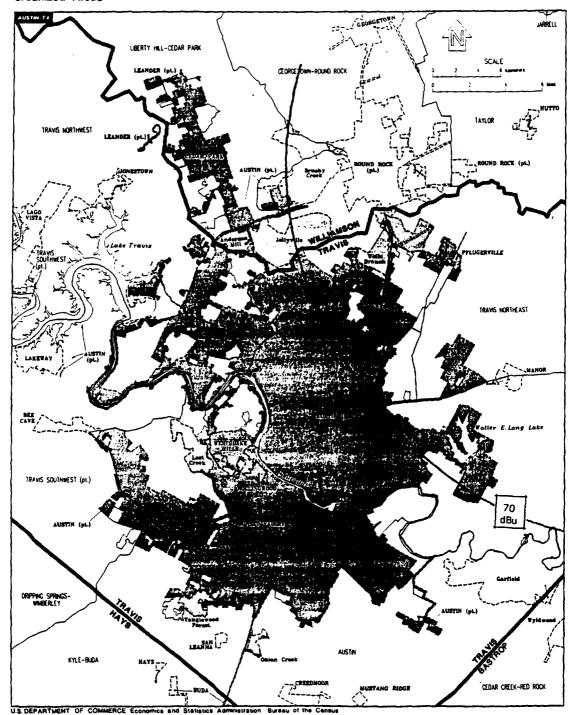
AUGUST, 1996

-------58 kM Hare **FROM** KHLR-LIC 56 kM **FROM** 158 kM KBAE FROM **PROP** KZEP-FM Rices 5 kM 10 kM 20 kM 30 kM SCALE IN KILOMETERS SCALE: 1:250,000

BROADCAST AND COMMUNICATIONS CONSULTING ENGINEERS P.O. Box 356 McKinney, Texas 75070 MEMBER AFCCE (214) 542-2056

## EXHIBIT E1-3 MAP SHOWING 70 DBU COVERAGE OVER AUSTIN, TEXAS URBANIZED AREA CHANNEL 282 C-2 TAYLOR, TEXAS AUGUST, 1996

#### **Urbanized Areas**



BROADCAST AND COMMUNICATIONS CONSULTING ENGINEERS
P.O. Box 356 McKinney, Texas 75070
MEMBER AFCCE
(214) 542-2056

#### CERTIFICATION OF ENGINEER

#### I hereby state that:

I am President of Sellmeyer Engineering

The Firm of Sellmeyer Engineering has been retained by Stellar Communications, Inc. to prepare this Engineering Exhibit

I am a graduate of Arizona State University with the degree of Bachelor of Science in Engineering

I am a Registered Professional Engineer in the States of Ohio and Texas

My qualifications as an Engineer are a matter of record with the Federal Communications Commission, having been previously accepted in applications of this type

This Engineering Exhibit was prepared by me personally or under my direct supervision, and

All facts stated herein are true and correct to the best of my knowledge and belief.

J. S. Sellmeyer, P. E.

September 2, 1996

P. O. Box 356 McKinney, Texas 75070

214-542-2056